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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/536,137	03/28/2000	Daniel A. Benton	FA0881, US Na	5926

23906 7590 04/14/2005

E I DU PONT DE NEMOURS AND COMPANY  
LEGAL PATENT RECORDS CENTER  
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WILMINGTON, DE 19805

EXAMINER

NGUYEN, CAM LINH T

ART UNIT	PAPER NUMBER
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2161

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/536,137

**Applicant(s)**

BENTON ET AL.

**Examiner**

CamLinh Nguyen

**Art Unit**

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 11/26/2004 have been fully considered but they are not persuasive.
2. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1 – 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corrigan et al (U.S. 6,522,977).
  - ◆ As per claims 1, 3, 11,
    - “Gathering the VIN (vehicle identification number) and manufacturer’s paint code, and manufacture date” See Fig. 1, element 10, col. 5 line 4 – 13. The paint code corresponds

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to the “OEM code numbers” which is the manufacturer’s designated colors, and may be obtained from a manufacturer (col. 8 line 61 – col. 9 line 10). Corrigan teaches that any additional information or vehicle specific designation of the vehicle could be used to the VIN system (col. 4 line 7 – 12, 39 – 44). Therefore, the manufacturer’s paint code may be obtained in step 10 in the invention.

- “Extracting from the VIN the model year and manufacturing site information” See col. 4 line 21 – 34, col. 8 line 60 - 66.
- “Searching database” See col. 8 line 60 - 66
- “Identifying the refinish colorcoat” See Fig. 1, col. 8 line 60 – col. 9 line 64.

Corrigan discloses a method that requires both VIN number and scanning sample color in order to obtain an accurate color matching. However, it is possible for one with skill in the art at the time the invention was made to practice different way, such as eliminating the step of scanning the sample color, for some reasons: the result would be the same without scanning sample color because the VIN number fully provides the color matching; the eliminated step would reduce the cost of the painting job.

♦ As per claims 2, 4, 9-10, 12, Corrigan discloses:

- “ A computer acting under a program” See col. 6 line 3 - 22, col. 9 line 65 – 67.

♦ As per claims 5, 7, Corrigan discloses:

- “Inputting the vehicle VIN” See Fig. 1, element 10, col. 5 line 4 – 13. The paint code corresponds to the “OEM code numbers” which is the manufacturer’s designated colors, and may be obtained from a manufacturer (col. 8 line 61 – col. 9 line 10). Corrigan teaches that any additional information or vehicle specific designation of the vehicle

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could be used to the VIN system (col. 4 line 7 – 12, 39 – 44). Therefore, the manufacturer's paint code may be obtained in step 10 in the invention.

- "Inputting the manufacturer's paint code" The paint code corresponds to the "OEM code numbers" which is the manufacturer's designated colors, and may be obtained from a manufacturer (col. 8 line 61 – col. 9 line 10). Corrigan teaches that any additional information or vehicle specific designation such as paint formulations (col. 7 line 66 – 67) of the vehicle could be used to the VIN system (col. 4 line 7 – 12, 39 – 44).

Therefore, the manufacturer's paint code may be obtained in step 10 in the invention.

- "Processing the input data" See col. 4 line 21 – 34, col. 8 line 60 – 66.
- "Executing a search for a refinish colorcoat" See col. 8 line 60 – 66
- "Displaying in human-readable" See col. 5 line 38 – 40, col. 11 line 47 – 50.

♦ As per claims 6, 8, Corrigan discloses:

- "Preparing an actual refinish colorcoat" See col. 11 line 59 – 64.
- "Applying the prepared refinish colorcoat" See col. 11 line 59 – 64.

♦ As per claim 13, Corrigan discloses:

- "The model year and site of manufacture are ascertained from the VIN" See col. 4 line 21 – 34.

### *Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CamLinh Nguyen whose telephone number is (571) 272-4024. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (571) 272-4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LN



**ALFORD KINDRED  
PRIMARY EXAMINER**